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July 26, 1960

Honorable Allan W. Dallas, Director
Central Intelligence Agency

Dear Mr. Dallas:

On June 20, 1960, your Deputy Director requested our opinion whether you may promulgate certain regulations under the authority granted you by section 4(a)(4) of the Central Intelligence Agency Act of 1949, 62 Stat. 209, as amended, 50 U.S.C. 4034(a)(4). That section of the statute provides:

"Notwithstanding the provisions of any other law, transport for or on behalf of an officer or employee of the Agency, a privately owned automobile in any case where it shall be determined that water, rail, or air transportation of the automobile is necessary or expedient for any part or of all the distance between points of origin and destination, and pay the costs of such transportation."

The Deputy Director says that:

"Under the above provisions, privately owned automobiles for those employees reassigned from overseas to the Washington, D. C. area are normally returned to either New York or Baltimore ports. In many cases the automobile arrives at the port after the owner has returned and entered on duty at his Washington, D. C. post. When notified of arrival, the owner may go to the port and drive the automobile to Washington, D. C. In other instances, when an employee is reassigned from Washington, D. C. to an overseas post and when travel by air or through other ports is directed, it may be necessary for the employee to deliver his automobile to either Baltimore or New York ports in advance of his actual departure from his Washington, D. C. post, or for the automobile to be delivered at Government expense by common carrier."

The Deputy Director points out your agency's belief that a general program permitting employees to transport their automobiles as outlined above will result in a considerable savings to the Government. He refers to possible side issues of customs, claims against carriers, etc.,

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which if handled on the spot by the employee, could result in a savings in time and money to the Government; otherwise, the various elements considered in arriving at the "considerable savings" conclusions are not specified. We feel, therefore, it is relevant to note that the salary cost factor covering the time the employee would be absent from his usual duties would be a major item of cost to the Government to be used as an offset against other probable economies.

In view of the above-quoted law and facts, the Deputy Director requests our decision whether you are authorized to issue regulations which would permit:

"(1) employees to transport their automobiles between a post of duty in the Washington, D. C. area and ports at New York or Baltimore without charge to annual leave; (2) reimbursement to be effected at a standard allowance per round trip in lieu of per diem, mileage, bridge and highway tolls, etc., and established on the basis of actual travel expenses incurred not to exceed the cost of transporting automobiles by available common carrier between Washington, D. C. and ports at New York or Baltimore."

The round-trip travel of an employee from Washington to New York, or to Baltimore, cannot be considered travel on official business when the sole purpose of such travel is to initiate or complete the transportation of the employee's privately owned vehicle between his duty post in Washington and his foreign duty post. In that regard, such round-trip travel is not to be considered a part of the travel pursuant to an employee's change of station because the necessary travel for change of station would be completed apart from and in addition to the round-trip travel to the ports in question. It necessarily follows that the absence of the employee from duty for the sole purpose of picking up or delivering the automobile is chargeable to annual leave. Therefore, we feel that item (1) of the proposed program is not authorized under existing law.

Concerning the standard allowance proposed under item (2), we believe that, as in the case concerning the absence without charge to leave, legislative sanction would be necessary. We are of the view, however, that it would be proper under your current statutory authority to regulate so as to permit payment--as part of expenses of transporting the automobile--to the employee of round-trip "transportation" between Washington, D. C., and New York or Baltimore, not to exceed the cost of transporting the automobile between those points by "available common carrier." Presumably in determining such cost, consideration

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would be given to these commercial transportation facilities which are used when an automobile actually is transported by commercial means. The accommodations authorized to the employee for the one-way common carrier travel and the mileage rate for one-way transportation by the employee's automobile incident to pick-up or delivery of the automobile should be in accordance with the usual provisions governing transportation of your employees. The transportation items so authorized would constitute part of the cost of transportation under section 4(a)(4) of the statute. Subject to the above restrictions, our Office would not object to your promulgating a regulation incorporating the basic concept of payment to the employee of the round-trip transportation specified in item (2) of the proposed program.

Sincerely yours,

Comptroller General
of the United States